

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 919 Commercial Parasailing

**SPONSOR(S):** Environment & Natural Resources Council, Domino and others

**TIED BILLS:** **IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Conservation &amp; State Lands</u>	<u>8 Y, 0 N</u>	<u>Palmer</u>	<u>Zeiler</u>
2) <u>Environment &amp; Natural Resources Council</u>	<u>16 Y, 0 N, As CS</u>	<u>Palmer / Bellflower</u>	<u>Dixon / Hamby</u>
3) <u>Policy &amp; Budget Council</u>	<u></u>	<u></u>	<u></u>
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5) <u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

The bill is to be known as the "Amber May White Act." The bill defines commercial parasailing and requires the owner of each vessel engaged in commercial parasailing to obtain insurance from an insurance carrier licensed in Florida. The bill specifies the minimum limits of insurance coverage and requires the owner to have certain information regarding the insurance available at the location where commercial parasailing is offered. The bill also requires any person in charge or in command of a vessel engaged in commercial parasailing to have a valid license, issued by the U. S. Coast Guard, authorizing that person to engage in carrying passengers for hire. The bill establishes certain conditions and limitations for the operation of a commercial parasailing vessel and establishes penalties for violations of the bill.

The bill does not appear to have a significant fiscal impact on state or local governments.

The bill would become effective on October 1, 2008.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: Extends FWC's regulatory authority, by providing for the FWC to regulate commercial parasailing.

Safeguard Individual Liberty: This bill requires owners of commercial parasailing vessels to obtain an insurance policy.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Parasailing is the towing of one or more persons attached to a specially designed parachute, known as a parasail, and tethered to a towing vehicle such that they ascend into the air while the tow vehicle is underway. A person attached to the parasail is referred to as the parascender. The towing vehicle is typically a boat and provides most of the control over the parasail – the parascender has little or no control over the parasail.

Section 327.37, F.S., provides that a person may not operate a vessel on any waters of this state while towing a person attached to a parasail or similar device unless there is an observer in the vessel, other than the operator, who is in a position to observe the progress of the person being towed. Additionally, a person may not:

- engage in parasailing or any similar activity at any time between the hours from one-half hour after sunset to one-half hour before sunrise;
- engage in parasailing or any similar activity unless the parascender is wearing a non-inflatable type I, type II, type III, or type V personal flotation device approved by the United States Coast Guard;
- operate or manipulate any vessel, tow rope, or other device, in such a way as to cause the parasail or similar device to collide or strike against or be likely to collide or strike against any vessel, bridge, wharf, pier, dock, buoy, platform, piling, channel marker, or other object; or
- operate any vessel towing a parasail or engage in parasailing within 100 feet of the marked channel of the Florida Intracoastal Waterway.

Currently, there are no statutes regulating the operation of a commercial parasailing venture.

##### Effect of Proposed Changes

The bill amends s. 327.02, F.S., defining the term "commercial parasailing" to mean to provide or offer to provide, for consideration, any activity involving the towing of one or more persons tethered to the towing vessel such that they ascend above the water and remain suspended above the water while the vessel is underway.

The bill creates s. 327.375, F.S., which provides:

- Section 327.375, F.S., will be known as the "Amber May White Act."
- An insurance policy is to be carried by the owner of any vessel engaged in commercial parasailing and the policy is to be obtained from an insurance carrier licensed in this state. The policy is to insure against any accident, loss, injury, property damage, or other casualty caused by or resulting from any commercial parasailing activity and is to carry coverage of at least \$500,000 per person and \$1 million per event. The owner must have proof of such insurance available for inspection at the location wherever commercial parasailing is offered or provided

for consideration and shall provide to each customer, upon request, the insurance carrier's name and address and the insurance policy number.

- Any person in charge or in command of a vessel engaged in commercial parasailing is to meet the following requirements:
  - a person may not operate a vessel engaged in commercial parasailing on the waters of this state unless he has a current and valid license issued by the United States Coast Guard (USCG) authorizing him to engage in carrying passengers for hire -- the license must be appropriate for the number of passengers carried and the displacement of the vessel, must be carried on the vessel, and must be available for inspection while commercial parasailing activities are being conducted;
  - riders are only to be launched from and recovered to the vessel;
  - no more than two persons may be tethered to the towing vessel and ascend above the water at any time; and
  - all riders must wear an appropriate floatation device approved by the United States Coast Guard, other than an inflatable device, that is in serviceable condition and of the proper size.
- An observer, other than the operator, is to:
  - be eighteen years of age or older;
  - be present in the vessel at all times to monitor the progress of any tethered parasail rider and parasail equipment; and
  - be attentive to the parasail rider or riders and parasail equipment.
- A person may not operate any vessel engaged in commercial parasailing unless:
  - the vessel is in full compliance with all requirements of the United States Coast Guard governing crewing and equipment for passenger-carrying vessels; and
  - the vessel is equipped with a functional VHF marine transceiver.
- Commercial parasailing is prohibited from one-half hour after sunset to one-half hour before sunrise.
- Any person convicted of violating this section commits a misdemeanor of the second degree.

#### C. SECTION DIRECTORY:

Section 1: Amends s. 327.02, F.S., providing definitions.

Section 2: Creates s. 327.375, F.S., providing regulation of commercial parasailing.

Section 3: Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

See Fiscal Comments.

#### 2. Expenditures:

See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The owners of commercial parasailing vessels are required to carry an insurance policy.

D. FISCAL COMMENTS:

The bill has an insignificant fiscal impact on state revenues and expenditures.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds, nor does it appear to reduce the authority that cities or counties have to raise revenues in the aggregate, nor does it appear to reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No new rulemaking authority is granted to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No sponsor statement submitted.

### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On April 9, 2008, the Environment & Natural Resources Council amended and passed CS/HB 919. The original bill differs from the CS in the following ways:

The original bill provided a definition of the term "sustained wind speed". CS/HB 919 deleted this definition. The original bill required that the owner of each vessel engaged in commercial parasailing obtain – at a cost of \$50.00 – an annual license from the Fish and Wildlife Conservation Commission (FWC). The bill provides for licensing fees to be paid into the Marine Resources Conservation Trust Fund to allow FWC to recover costs associated with regulating commercial parasailing. The license is to be available for inspection whenever a vessel is engaged in commercial parasailing. This FWC licensing requirement is not included in the CS/HB 919.

The original bill required insurance coverage of at least \$750 thousand per person and \$1.5 million per event. The deductible for the insurance policy may not exceed \$5,000 per event. The CS/HB 919 changes the insurance coverage to at least \$500 thousand per person and \$1 million per event. The deductible limit is not included.

The CS/HB 919 deletes from the original bill:

- The specification that a person may not operate a vessel towing a commercial parasailing rider in the Atlantic Ocean or the Gulf of Mexico unless the vessel, towline, and rider are:
  - 2,000 feet or more from the shore;
  - 600 feet or more from an anchored vessel, a person in the water, a seawall, structure, bridge, power line, wharf, pier, dock, buoy, platform, piling, channel marker, or other similar object.
- The prohibition against commercial parasailing:
  - on any body of water less than 2,000 feet in width in its narrowest dimension from shore to shore in the area where the parasailing activity is taking place;
  - at all times during restricted visibility as defined in the navigation rules; and
  - when there is a sustained wind speed of 20 knots or higher in the area of operation.
- The equipment requirements:
  - towlines used for commercial parasailing may not exceed 600 feet in length;
  - the vessel must have a launch platform; and
  - all riders are connected to the towline and secured in a seat harness attached to an ascending type of parachute.

The CS/HB 919 also deletes the requirement that the observer in a vessel engaged in commercial parasailing have no other duties while the riders are in the air or in the water.